

1340

2013-2014 Regular Sessions

I N   S E N A T E

(PREFILED)

January 9, 2013

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Introduced by Sens. MAZIARZ, LAVALLE -- read twice and ordered printed,  
and when printed to be committed to the Committee on Energy and Tele-  
communications

AN ACT to amend the public service law, the economic development law and  
the tax law, in relation to eligibility for admission to the excelsior  
jobs program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. The closing paragraph of paragraph (b) of subdivision 4 of  
2     section 165 of the public service law, as added by chapter 388 of the  
3     laws of 2011, is amended to read as follows:  
4     The applicant shall supply the details of the analysis in the applica-  
5     tion and such supporting information, as may be requested by the board  
6     or, in the exercise of federally delegated or approved environmental  
7     permitting authority, the department of environmental conservation,  
8     necessary to show compliance with the requirements of subparagraphs (i)  
9     through (iv) of this paragraph. The board may extend the deadline in  
10    extraordinary circumstances by no more than three months in order to  
11    give consideration to specific issues necessary to develop an adequate  
12    record. The board shall render a final decision on the application by  
13    the aforementioned deadlines unless such deadlines are waived by the  
14    applicant. If, at any time subsequent to the commencement of the hear-  
15    ing, there is a material and substantial amendment to the application,  
16    the deadlines may be extended by no more than three months, unless such  
17    deadline is waived by the applicant, to consider such amendment. SHOULD  
18    THE BOARD GRANT A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION  
19    OR OPERATION OF A FACILITY OR IF THERE IS A PROPOSED FACILITY THAT HAD  
20    BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF  
21    LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, THE APPLICANT OR  
22    PROPOSED FACILITY SHALL BE ELIGIBLE TO APPLY FOR ADMISSION TO THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD02285-01-3

1 EXCELSIOR JOBS PROGRAM ESTABLISHED PURSUANT TO ARTICLE SEVENTEEN OF THE  
2 ECONOMIC DEVELOPMENT LAW.

3 S 2. Subdivision 14 of section 352 of the economic development law, as  
4 added by section 1 of part MM of chapter 59 of the laws of 2010, is  
5 amended to read as follows:

6 14. "Regionally significant project" means (a) a manufacturer creating  
7 at least fifty net new jobs in the state and making significant capital  
8 investment in the state; (b) a business creating at least twenty net new  
9 jobs in agriculture in the state and making significant capital invest-  
10 ment in the state, (c) a financial services firm, distribution center,  
11 or back office operation creating at least three hundred net new jobs in  
12 the state and making significant capital investment in the state, [or]  
13 (d) a scientific research and development firm creating at least twenty  
14 net new jobs in the state, and making significant capital investment in  
15 the state, OR (E) A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN  
16 SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANT-  
17 ED A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION  
18 OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED  
19 SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY  
20 THAT HAD BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER  
21 PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION. Other  
22 businesses creating three hundred or more net new jobs in the state and  
23 making significant capital investment in the state may be considered  
24 eligible as a regionally significant project by the commissioner as  
25 well. The commissioner shall promulgate regulations pursuant to section  
26 three hundred fifty-six of this article to determine what constitutes  
27 significant capital investment for each of the project categories indi-  
28 cated in this subdivision and what additional criteria a business must  
29 meet to be eligible as a regionally significant project, including, but  
30 not limited to, whether a business exports a substantial portion of its  
31 products or services outside of the state or outside of a metropolitan  
32 statistical area or county within the state.

33 S 3. Subdivisions 1 and 5 of section 353 of the economic development  
34 law, as amended by section 2 of part G of chapter 61 of the laws of  
35 2011, are amended to read as follows:

36 1. To be a participant in the excelsior jobs program, a business enti-  
37 ty shall operate in New York state predominantly:

38 (a) as a financial services data center or a financial services back  
39 office operation;

40 (b) in manufacturing;

41 (c) in software development and new media;

42 (d) in scientific research and development;

43 (e) in agriculture;

44 (f) in the creation or expansion of back office operations in the  
45 state;

46 (g) in a distribution center; [or]

47 (h) in an industry with significant potential for private-sector  
48 economic growth and development in this state as established by the  
49 commissioner in regulations promulgated pursuant to this article. In  
50 promulgating such regulations the commissioner shall include job and  
51 investment criteria; OR

52 (I) AS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN SECTION ONE  
53 HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANTED A CERTIF-  
54 ICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION OF A FACIL-  
55 ITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF  
56 THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY THAT HAD BEEN

1 GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF LAW  
2 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

3 5. A not-for-profit business entity, a business entity whose primary  
4 function is the provision of services including personal services, busi-  
5 ness services, or the provision of utilities, and a business entity  
6 engaged predominantly in the retail or entertainment industry, and a  
7 company engaged in the generation or distribution of electricity, the  
8 distribution of natural gas, or the production of steam associated with  
9 the generation of electricity, EXCEPT A MAJOR ELECTRIC GENERATING FACIL-  
10 ITY AS DEFINED IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW  
11 THAT HAS BEEN GRANTED A CERTIFICATE OR AMENDMENT THEREOF FOR THE  
12 CONSTRUCTION OR OPERATION OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF  
13 SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS  
14 A PROPOSED FACILITY THAT HAD BEEN GRANTED CERTIFICATION OR OTHER  
15 APPROVAL UNDER ANOTHER PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF  
16 THIS SECTION, are not eligible to receive the tax credit described in  
17 this article.

18 S 4. Subdivision (a) of section 31 of the tax law, as amended by  
19 section 7 of part G of chapter 61 of the laws of 2011, is amended to  
20 read as follows:

21 (a) General. A taxpayer subject to tax under section one hundred  
22 eighty-five, article nine-A, twenty-two, thirty-two or thirty-three of  
23 this chapter, OR A TAXPAYER SUBJECT TO SECTION ONE HUNDRED EIGHTY-SIX-A  
24 OF THIS CHAPTER WHO IS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED  
25 IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW, THAT HAS BEEN  
26 GRANTED A CERTIFICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPER-  
27 ATION OF A FACILITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED  
28 SIXTY-FIVE OF THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY  
29 THAT HAD BEEN GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER  
30 PROVISION OF LAW PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, shall be  
31 allowed a credit against such tax, pursuant to the provisions referenced  
32 in subdivision (g) of this section. The amount of the credit, allowable  
33 for up to ten consecutive taxable years, is the sum of the following  
34 four credit components:

- 35 (1) the excelsior jobs tax credit component;  
36 (2) the excelsior investment tax credit component;  
37 (3) the excelsior research and development tax credit component; and  
38 (4) the excelsior real property tax credit component.

39 S 5. Subdivision (a) of section 187-q of the tax law, as added by  
40 section 9 of part G of chapter 61 of the laws of 2011, is amended to  
41 read as follows:

42 (a) Allowance of credit. A taxpayer will be allowed a credit, to be  
43 computed as provided in section thirty-one of this chapter, against the  
44 tax imposed by section one hundred eighty-five of this article OR  
45 SECTION ONE HUNDRED HUNDRED EIGHTY-SIX-A OF THIS ARTICLE AND THE TAXPAY-  
46 ER IS A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN SECTION ONE  
47 HUNDRED SIXTY OF THE PUBLIC SERVICE LAW THAT HAS BEEN GRANTED A CERTIF-  
48 ICATE OR AMENDMENT THEREOF FOR THE CONSTRUCTION OR OPERATION OF A FACIL-  
49 ITY PURSUANT TO SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF  
50 THE PUBLIC SERVICE LAW OR IF THERE IS A PROPOSED FACILITY THAT HAD BEEN  
51 GRANTED CERTIFICATION OR OTHER APPROVAL UNDER ANOTHER PROVISION OF LAW  
52 PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

53 S 6. This act shall take effect immediately.